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Administration of justice at the United Nations

Administration of justice in the Secretariat: outcome of the work of the Joint Appeals Board during 2004 and 2005; and statistics on the disposition of cases and work of the Panel of Counsel

Report of the Secretary-General

Summary

The present report is submitted in response to the request of the General Assembly to the Secretary-General, in its resolution 55/258 (sect., para. 5), that he report to the Assembly on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the report of the Secretary-General on the administration of justice in the Secretariat (A/60/72 and Corr.1) provided information concerning the outcome of the work of the Joint Appeals Board for 2003-2004. The present report provides information on the work of all of the Joint Appeals Boards in New York, Geneva, Vienna and Nairobi for 2005. For comparative purposes, the present report also contrasts 2005 and 2004 data. In response to the request of the Assembly in its resolution 57/307, the report also provides statistics on the disposition of cases and information on the work of the Panel of Counsel. To that end, the above-mentioned report of the Secretary-General on the administration of justice in the Secretariat provided information on the disposition of cases and work of the Panel of Counsel for 2004. The present report provides that information for 2005.

* A/61/50 and Corr.1.

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I. Introduction

1. In its resolution 55/258 (sect. XI, para. 5), the General Assembly requested that the Secretary-General report to it on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the report of the Secretary-General on the administration of justice in the Secretariat (A/60/72 and Corr.1) provided information on the work of all Joint Appeals Boards (New York, Geneva, Vienna and Nairobi) for the period 2003-2004. The present report provides information and numerical data on the work of the Joint Appeals Boards for 2005.

2. In its resolution 57/307 (para. 21), the General Assembly requested the Secretary-General to include statistics on the disposition of cases and information on the work of the Panel of Counsel in his annual report on the administration of justice in the Secretariat. In response to that request, the above-mentioned report of the Secretary-General on the administration of justice provided information on the disposition of cases and work of the Panel of Counsel for 2004. The present report provides such information for 2005.

A. Outcome of the work of the Joint Appeals Board

3. Table 1 below sets out information, in both numerical and graphic form, on the work of the Joint Appeals Boards in New York, Geneva, Vienna and Nairobi for 2004 and 2005 by providing the number of appeals and suspension of action cases filed and disposed of[1] during those years.

4. As can be seen from the information presented in table 1, there was an increase in the number of appeals filed with the Joint Appeals Boards during 2005. The New York Joint Appeals Board received 57 more appeals than in 2004, a significant increase of 136 per cent. As for the corresponding figures for the other Joint Appeals Boards there was a slight increase in the number of cases the Geneva Board received as compared to 2004. The Vienna Board received 3 more appeals in 2005, an increase of 150 per cent, and the Nairobi Board received 10 more appeals, an increase of 166 per cent.

5. There is also a difference between the two periods in the number of cases disposed of by the Joint Appeals Boards. Both the New York and the Geneva Joint Appeals Boards disposed of fewer appeals during 2005 than in 2004. Specifically, the number of appeals disposed of by the New York Joint Appeals Board decreased by 10 per cent in 2005, while the number of appeals disposed of by the Geneva Joint Appeals Board decreased by 26 per cent. The decreases were directly related to the significantly expanded number of disciplinary cases that were referred to those two Boards during 2005, which were given priority of consideration over appeals (see also para. 7 below). The Vienna Joint Appeals Board disposed of seven fewer cases in 2005 than during 2004, a decrease of 88 per cent, while in Nairobi the Board disposed of 13 more cases in 2005 than in 2004, an increase of 163 per cent.

[1] The term "disposed of" refers to appeals with respect to which the Joint Appeals Board has completed its involvement. The figures may include appeals which, though filed during a previous year, were disposed of in subsequent years due to an existing backlog. This explains why, at times, the number of appeals disposed of is higher than the number of appeals filed.

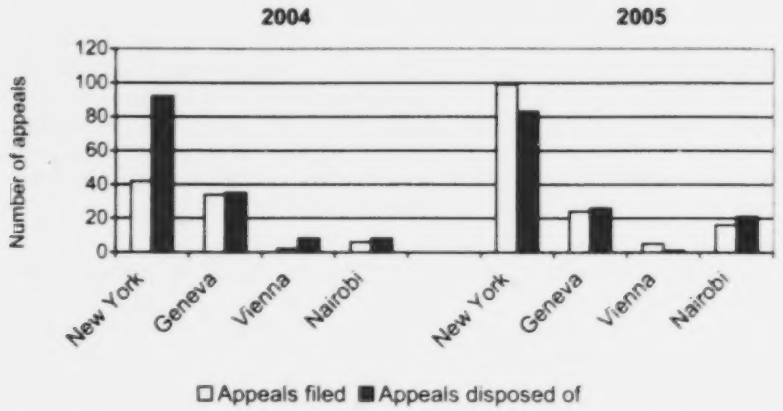
6. As to the number of pending appeals at the end of the reporting period, the Vienna Joint Appeals Board had four pending appeals. The Nairobi Board had nine pending appeals, whereas the Geneva Board had 33 pending appeals and 18 pending disciplinary cases. The New York Board continues to have the highest number of pending appeals, although there was a noticeable decrease in the backlog from 117 cases in 2003 to 69 by the end of 2004. At the end of 2005, the number of pending appeals at the New York Board was 85 (this figure includes the 232 cases contesting the same administrative decision, which are therefore counted as one). The New York Board also had 18 pending disciplinary cases at the end of 2005.

7. Disciplinary cases are also handled by the secretariats of the Joint Appeals Boards and are always considered on a priority basis. In 2005, 22 disciplinary cases were referred to the New York Joint Disciplinary Committee, which considered 14 of those cases. As for the Geneva Joint Disciplinary Committee, it considered four disciplinary cases (out of the 19 cases referred to it), and the Nairobi Joint Disciplinary Committee considered one disciplinary case. No cases were submitted to the Vienna Joint Disciplinary Committee during 2005.

Table 1
Number of appeals and suspension-of-action cases filed and disposed of by all Joint Appeals Boards in 2004 and 2005

Standing Joint Appeals Boards	*2004*	*2005*	*Percentage of variance*
New York: appeals filed	42[a]	99	+136
New York: appeals disposed of	92	83	-10
Geneva: appeals filed	34	24	-29
Geneva: appeals disposed of	35	26	-26
Vienna: appeals filed	2	5	+150
Vienna: appeals disposed of	8	1	-88
Nairobi: appeals filed	6	16	+166
Nairobi: appeals disposed of	8	21	+163

[a] One of these appeals comprises 232 cases contesting the same administrative decision (of these 232 cases, 149 were filed with the Joint Appeals Board on 26 December 2003 but were assigned 2004 case numbers by the secretariat of the Board) (see A/60/72/Corr.1).



8. Table 2 below and its accompanying figures provide, in both numerical and graphic forms, information on the decisions taken by the Secretary-General on reports of the Joint Appeals Board for 2004 and 2005.

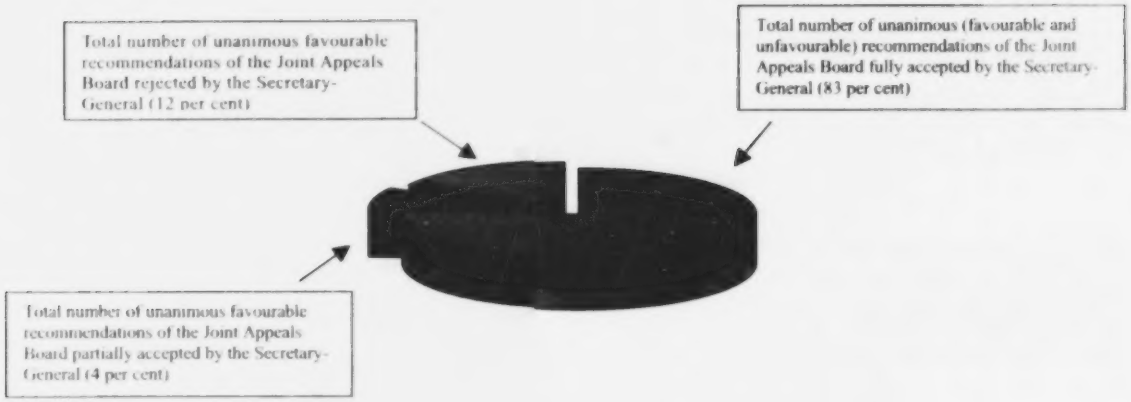
Table 2

Breakdown of decisions by the Secretary-General on unanimous recommendations of the Joint Appeals Board on appeals and requests for suspension of action in 2004 and 2005

2004

Joint Appeals Board reports from	*Total number of decisions on reports*	*Total number of unanimous recommendations of the Board*	*Total number of unanimous recommendations of the Board fully accepted by the Secretary-General*	*Total number of unanimous recommendations of the Board partially accepted by the Secretary-General*	*Total number of unanimous favourable recommendations of the Board rejected by the Secretary-General*	*Total number of unanimous unfavourable recommendations of the Board*
New York	60	59	48 (81%)	3 (5%)	7 (12%)	37 (63%)
Geneva	15	15	14 (93%)	0	1 (7%)	11 (73%)
Vienna	5	5	4 (80%)	0	1 (20%)	3 (60%)
Nairobi	5	5	4 (80%)	0	1 (20%)	2 (40%)
Total	**85**	**84**	**70 (83%)**	**3 (4%)**	**10 (12%)**	**53 (63%)**

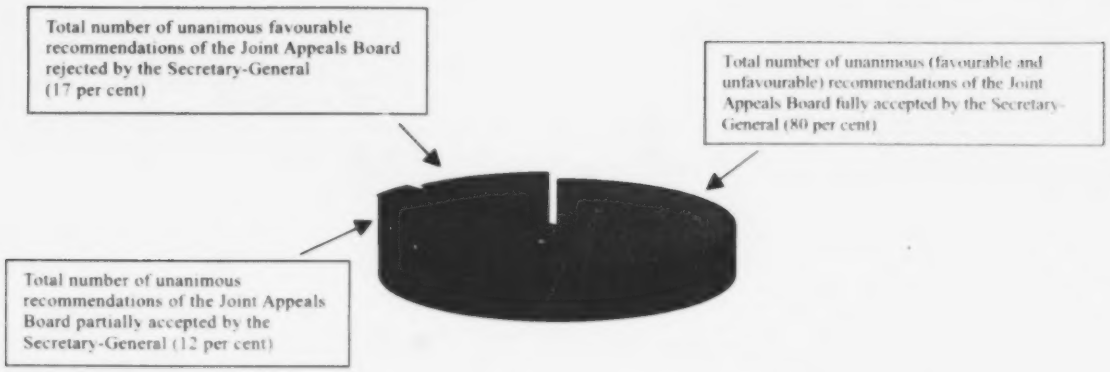
87% (full and partial acceptances)


Total number of unanimous favourable recommendations of the Joint Appeals Board rejected by the Secretary-General (12 per cent)
Total number of unanimous (favourable and unfavourable) recommendations of the Joint Appeals Board fully accepted by the Secretary-General (83 per cent)
Total number of unanimous favourable recommendations of the Joint Appeals Board partially accepted by the Secretary-General (4 per cent)

2005

Joint Appeals Board reports from	*Total number of decisions on reports*	*Total number of unanimous recommendations of the Board*	*Total number of unanimous recommendations of the Board fully accepted by the Secretary-General*	*Total number of unanimous recommendations of the Board partially accepted by the Secretary-General*	*Total number of unanimous favourable recommendations of the Board rejected by the Secretary-General*	*Total number of unanimous unfavourable recommendations of the Board*
New York	91	88	71 (81%)	11 (13%)	8 (9%)	35 (40%)
Geneva	17	17	14 (82%)	1 (6%)	3 (18%)	12 (71%)
Vienna	4	4	4 (100%)	0	0	3 (75%)
Nairobi	17	17	12 (71%)	3 (18%)	11 (12%)	10 (59%)
Total	**129**	**126**	**101 (80%)**	**15 (12%)**	**22 (17%)**	**60 (48%)**

92% (full and partial acceptances)


Total number of unanimous favourable recommendations of the Joint Appeals Board rejected by the Secretary-General (17 per cent)
Total number of unanimous (favourable and unfavourable) recommendations of the Joint Appeals Board fully accepted by the Secretary-General (80 per cent)
Total number of unanimous recommendations of the Joint Appeals Board partially accepted by the Secretary-General (12 per cent)

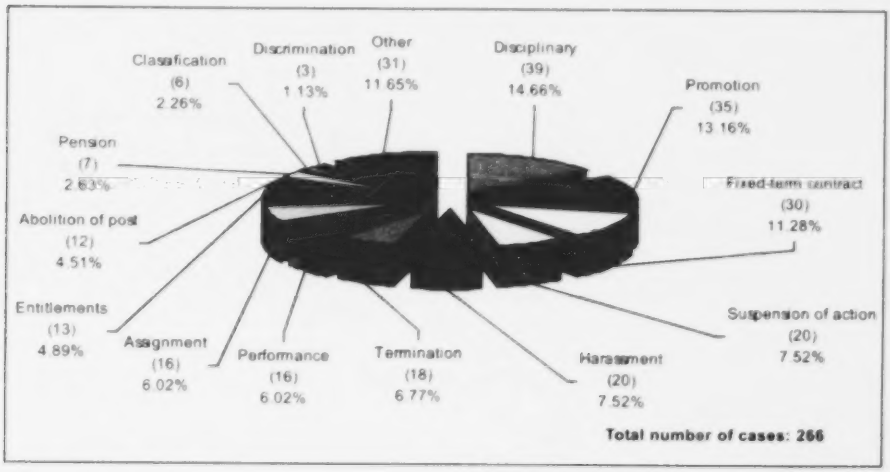
9. As can be seen from table 2 above and its accompanying figures for 2004 and 2005, the percentage of full and partial acceptances by the Secretary-General of unanimous recommendations of the Joint Appeals Board increased in comparison to the previous year (87 per cent for 2004 and 92 per cent for 2005). The percentage of rejections by the Secretary-General of unanimous recommendations of the Board that were favourable to the appellants was relatively low in both periods (12 per cent in 2004 and 17 per cent in 2005).

10. This is in line with the stated policy of the Secretary-General, which is normally to accept unanimous recommendations unless there is a compelling reason of law or policy not to do so. In all such instances, the decisions of the Secretary-General provide detailed reasons for such rejection, which in most cases is attributable to the incorrect application of law or policy by the Joint Appeals Board or inadequate fact-finding that is not supported by the evidence available. With the increased training for the members of the Joint Appeals Board and the Joint Disciplinary Committee in the applicable law and policies of the Organization and the availability of the web-based repository of the recent jurisprudence of the Administrative Tribunal (encompassing jurisprudence on judgements rendered from 1980 onwards), the Secretary-General trusts that unanimous recommendations will be more reliably supported by the evidence, as well as reflective of the applicable law, and that consequently the percentage of acceptable recommendations would rise even more. The Secretary-General, however, would still have the discretionary authority to reject unanimous recommendations of the Joint Appeals Board should he find that it is in the interest of the Organization to do so.

B. Statistics on the disposition of cases and work of the Panel of Counsel

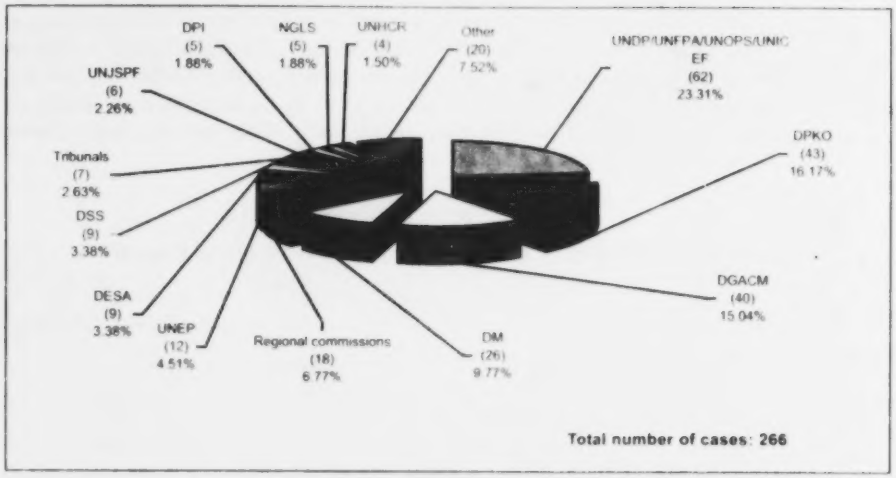
11. In 2005, there were a total of 266 new cases brought to the Panel of Counsel in New York, compared to 224 cases in 2004, an increase of 18.75 per cent. As shown in Table 3 below, most of those cases concerned disciplinary matters (14.66 per cent); promotion (13.16 per cent); and non-renewal of fixed-term contracts (11.28 per cent). It is important to note that disciplinary cases are the most labour intensive.

Table 3
Subject matters and number of cases dealt with by the Panel of Counsel during 2005



12. As can be seen from table 4 below, many of the requests for assistance addressed to the New York Panel of Counsel during 2005 came from staff members in field-oriented departments and agencies, in particular the Department of Peacekeeping Operations and the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA), the United Nations Office for Project Services (UNOPS) and the United Nations Children's Fund (UNICEF).

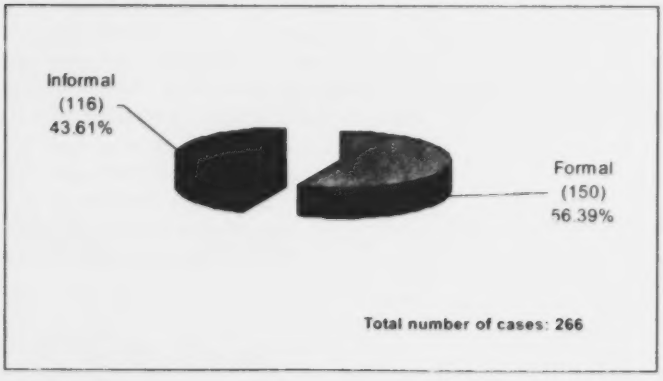
Table 4
Departments/agencies where most cases originated[a]



[a] UNJSPF — United Nations Joint Staff Pension Fund; DPI — Department of Public Information; NGLS — United Nations Non-Governmental Liaison Service; UNHCR — United Nations High Commissioner for Refugees; DPKO — Department of Peacekeeping Operations; DGACM — Department for General Assembly and Conference Management; DM — Department of Management; UNEP — United Nations Environment Programme; DESA — Department of Economic and Social Affairs; DSS — Department of Safety and Security.

13. Of the 266 new cases in 2005, 116 (or 43.61 per cent) were dealt with informally while 150 (or 56.39 per cent) went through the formal process (see table 5 below).

Table 5
Informal resolution versus formal appeals: new cases in 2005



14. **The General Assembly may wish to take note of the present report.**